



## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-905]

#### Certain Steel Nails from India: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of certain steel nails (steel nails) from India.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Genevieve Coen or Eric Hawkins, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3251 or (202) 482-1988, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 7, 2022, Commerce published the *Preliminary Determination* in the *Federal Register*.<sup>1</sup> For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.<sup>2</sup> The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at

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<sup>1</sup> See *Certain Steel Nails from India: Preliminary Affirmative Countervailing Duty Determination*, 87 FR 34654 (June 7, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Determination of the Countervailing Duty Investigation of Certain Steel Nails from India," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### Period of Investigation

The period of investigation is April 1, 2020, through March 31, 2021.

### Scope of the Investigation

The products covered by this investigation are steel nails from India. For a complete description of the scope of this investigation, *see* Appendix I.

### Scope Comments

On July 5, 2022, Commerce issued the Preliminary Scope Memorandum.<sup>3</sup> Commerce received no comments from interested parties on the Preliminary Scope Memorandum. Thus, Commerce made no changes to the scope of this investigation since the *Preliminary Determination*.

### Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs by parties in this investigation, are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, *see* Appendix II of this notice.

### Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>4</sup> For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

### Verification

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<sup>3</sup> *See* Memorandum, “Antidumping Duty Investigations of Certain Steel Nails from India, Sri Lanka, Thailand, and Turkey and Countervailing Duty Investigations of Certain Steel Nails from India, Oman, Sri Lanka, Thailand, and Turkey: Preliminary Scope Decision Memorandum,” dated July 5, 2022 (Preliminary Scope Memorandum).

<sup>4</sup> *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.<sup>5</sup>

#### Changes Since the *Preliminary Determination*

Based on our review and analysis of the information received in lieu of on-site verification and comments received from parties, we made certain changes to the *Preliminary Determination*.<sup>6</sup> However, these changes did not alter the subsidy rates calculated in the *Preliminary Determination* for the mandatory respondents, or the rate for all other producers/exporters. For a discussion of these changes, *see* the Issues and Decision Memorandum.

#### All-Others Rate

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated countervailable subsidy rates for the individually investigated exporters and producers (*i.e.*, Astrotech Steels Pvt. Ltd. (Astrotech) and Geekay). Consistent with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, we also calculated an estimated all-others rate for exporters and producers not individually investigated. Section 705(c)(5)(A)(i) of the Act states that “the all-others rate shall be equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 {of the Act}.” Therefore, Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates

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<sup>5</sup> *See* Commerce’s Letters, In Lieu of On-site Verification Questionnaire, dated June 2, 2022, and June 9, 2022, respectively; *see also* “Astrotech’s In Lieu of Verification Questionnaire Response,” dated June 10, 2022; and Geekay’s Letter, “In Lieu of On-Site Verification Questionnaire Response,” dated June 17, 2022 (Geekay’s ILOV Response).

<sup>6</sup> For example, due to minor corrections, we modified Geekay Wires Limited’s (Geekay) subsidy calculations; these corrections, however, did not change Geekay’s final subsidy rate. *See* Geekay’s ILOV Response at 1-2.

calculated for the examined respondents using each company's publicly ranged sales value for the merchandise under consideration.<sup>7</sup>

#### Final Determination

Commerce determines that the following estimated net countervailable subsidy rates exist:

<b>Company</b>	<b>Subsidy Rate (percent <i>ad valorem</i>)</b>
Astrotech Steels Pvt. Ltd.	2.93
Geekay Wires Limited	2.73
All Others	2.85

#### Disclosure

Commerce intends to disclose its calculations performed to interested parties in this final determination within five days of any public announcement, or if there is no public announcement, within five days of the publication of this notice in accordance with 19 CFR 351.224(b).

#### Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after June 7, 2022, the date of publication of the *Preliminary Determination* in the *Federal Register*.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order and require a cash deposit of estimated

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<sup>7</sup> With two respondents under examination, Commerce normally calculates: (A) a weighted average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. As complete publicly ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. See Memorandum, "Preliminary Determination of Subsidy Rate for All Others," dated May 31, 2022.

countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

#### ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of steel nails from India. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of steel nails from India. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

#### Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

#### Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 771(i) of the

Act, and 19 CFR 351.210(c).

Dated: August 15, 2022.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.

## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation is certain steel nails having a nominal shaft or shank length not exceeding 12 inches. Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel or long-rolled flat steel bars. Certain steel nails may be of one piece construction or constructed of two or more pieces. Examples of nails constructed of two or more pieces include, but are not limited to, anchors comprised of an anchor body made of zinc or nylon and a steel pin or a steel nail; crimp drive anchors; split-drive anchors, and strike pin anchors. Also included in the scope are anchors of one piece construction.

Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank or shaft styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted.

Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

Also excluded from the scope are certain steel nails with a nominal shaft or shank length of one inch or less that are a component of an unassembled article, where the total number of nails is sixty (60) or less, and the imported unassembled article falls into one of the following eight groupings: (1) Builders' joinery and carpentry of wood that are classifiable as windows, French-windows and their frames; (2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; (3) swivel seats with variable height adjustment; (4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); (5) seats of cane, osier, bamboo or similar materials; (6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); (7) furniture (other than seats) of wood (with the exception of (i) medical, surgical, dental or veterinary furniture; and (ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or (8) furniture (other than seats) of materials other than wood, metal, or plastics (*e.g.*, furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

Also excluded from the scope of this investigation are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.2000 and 7317.00.3000.

Also excluded from the scope of this investigation are nails suitable for use in gas-actuated hand tools. These nails have a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point.

Also excluded from the scope of this investigation are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of this investigation are thumb tacks, which are currently classified under HTSUS subheading 7317.00.1000.

Also excluded from the scope are decorative or upholstery tacks.

Certain steel nails subject to this investigation are currently classified under HTSUS subheadings 7317.00.5501, 7317.00.5502, 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5508, 7317.00.5511, 7317.00.5518, 7317.00.5519, 7317.00.5520, 7317.00.5530, 7317.00.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, 7317.00.5590, 7317.00.6530, 7317.00.6560 and 7317.00.7500. Certain steel nails subject to these investigations also may be classified under HTSUS subheadings 7318.15.5090, 7907.00.6000, 8206.00.0000 or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.



## **Appendix II**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Subsidies Valuation Information
- IV. Analysis of Programs
- V. Analysis of Comments
  - Comment 1: Whether Commerce Should Apply Adverse Facts Available (AFA) to Reported Benefits Based on the Government of India's (GOI) Incomplete Questionnaire Responses
  - Comment 2: Whether Commerce Properly Initiated the Investigation and Met its Obligations Subject to the Agreement on Subsidies and Countervailing Measures (ASCM)
  - Comment 3: Whether the GOI's System for Measuring Input Consumption for Duty Drawback (DDB) is Reasonable and Effective
  - Comment 4: Whether the Export Promotion of Capital Goods Scheme (EPCGS) Confers a Countervailable Subsidy
  - Comment 5: Whether the Merchandise Export from India Scheme (MEIS) Can Be Considered a "Measure at Issue" When It Was Discontinued Prior to the Initiation of This Investigation
  - Comment 6: Whether the Special Economic Zone (SEZ) Programs are Countervailable
- VI. Recommendation

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